

Enforcement and Compliance Options Chart

PR-ENF-072 (REV. 8/07)

DEPARTMENT OF PESTICIDE REGULATION

ENFORCEMENT ACTIONS - ENFORCEMENT ACTIONS CONTAIN A PENALTY.			
ACTION	AFFECTED PARTY	AGENCY	PENALTY AND AUTHORITY
ADMINISTRATIVE PENALTY Administrative penalties are initiated by a CAC under DPR's Agricultural Civil Penalty (ACP) or Structural Civil Penalty (SCP) Programs, depending on violation(s) and/or licensing status. The Director may initiate administrative penalties for certain violations.	Violators of certain state pesticide laws and regulations or Labor Code §1695 and violators who are structural pest control licensees and businesses	CAC or DPR	<u>Agricultural Civil Penalty</u> - CAC can levy penalties up to \$ 5,000 per violation (FAC §12999.5; 3 CCR §§ 6128 - 6130); each person injured constitutes a separate violation (FAC § 12996.5); or, the CAC may refuse to issue a permit when a violator does not pay a penalty or follow a lawful order of the CAC. (FAC § 12999.5)
		CAC or SPCB	<u>Structural Civil Penalty</u> - CAC can levy penalties up to \$ 5,000 per violation or suspend right to work up to three working days per violation or require course attendance. (FAC §15202; BPC §8617; 16 CCR §1922)
		DPR	<u>Director</u> - The Director can levy penalties up to \$ 5,000 per violation for certain violations. (FAC §12999.4)
DISCIPLINARY ACTION	Licensees, certificate holders and permit holders	CAC	Refuse, revoke, or suspend county registration (section depends on license or certificate). Refuse, revoke, or suspend restricted materials permit. (FAC §§ 11512.5 and 14008)
	Licensees/ certificate holders	DPR	Refuse, revoke, or suspend license and/or certificate (section depends on type of license or certificate).
COURT ACTION, CIVIL	Any violator of state pesticide laws and regulations	DPR or SPCB	<u>Division 6 and 3 CCR Violations</u> \$1,000 - \$10,000 per violation. (FAC §11893) <u>Division 7 and 3 CCR Violations</u> \$1,000 - \$25,000 per violation. (FAC §12998)
		CAC or DPR	May seek to enjoin the violation or threatened violation of orders issued pursuant to Division 7, and performance of specific acts to protect persons, animals, crops or property. (FAC §13000.1) The Director (or SPCB) may initiate a civil court through the Office of the Attorney General. The Director may also consider CAC requests for DPR to initiate civil court action.
COURT ACTION, CRIMINAL	Any violator of state pesticide laws and regulations	District Attorney, City Attorney or Circuit Prosecutor	<u>Division 6 and 3 CCR Violations</u> \$500 - \$5,000 per violation and/or 10 days to 6 months imprisonment. (FAC §11891) <u>Division 7 and 3 CCR Violations</u> \$500 - \$50,000 per violation and/or up to one year imprisonment. (FAC §12996) The Director may request a District/City Attorney/Circuit Prosecutor to initiate a criminal action. The Director may also consider CAC requests for DPR to initiate criminal action, or request a CAC to initiate criminal action. Criminal action generally is limited to cases where a violation is egregious or of statewide significance.

STATUTE OF LIMITATIONS for Administrative Civil Penalty Actions		
<i>Penalty Actions Initiated by CAC - FAC §12999.5</i>	<i>Penalty Actions Initiated by the Director - FAC §12999.4</i>	<i>Penalty Actions Initiated by CAC - BPC §8617</i>
CAC has two years from occurrence of the violation, except one year from submission when the investigation is completed and submitted to the Director. (FAC §13000(a))	Director has four years from occurrence of certain violations. (FAC §§12842 and 13000(b))	CAC has one year from occurrence of the violation. (Code of Civil Procedure §340)

ABBREVIATIONS AND TERMS	
BPC = Business and Professions Code CAC = County Agricultural Commissioner CCR = California Code of Regulations (3 CCR = Title 3, 16 CCR = Title 16, of the California Code of Regulations) DPR = California Department of Pesticide Regulation Director = Director of the California Department of Pesticide Regulation	Division 6 = Division 6 of the FAC (specifically sections 11401 through 12500) Division 7 = Division 7 of the FAC (specifically sections 12501 through 16000) FAC = California Food and Agricultural Code SPCB = Structural Pest Control Board. SPCB is under the jurisdiction of the California Department of Consumer Affairs. § = section; §§ = sections (of a legal code)

COMPLIANCE ACTIONS - COMPLIANCE ACTIONS ARE OFFICIAL NOTICES OR WARNINGS TO PROMOTE CORRECTION. THEY ARE NOT 'PENALTIES' IN AND OF THEMSELVES.

ACTION	AFFECTED PARTY	AGENCY	ACTIVITY AND AUTHORITY
CEASE and DESIST ORDER VIOLATION NOTICE WARNING LETTER COMPLIANCE INTERVIEW "NONCOMPLIANCE" NOTED ON INSPECTION FORM	Any violator of state pesticide laws and regulations	CAC or DPR	No monetary penalty. These activities are consistent with general provisions of the FAC. Cease and Desist Orders may be issued pursuant to FAC §§11737, 11896 or 11897 (Division 6) or FAC §§13101 or 13102 (Division 7). In addition, the Director may issue a cease and desist order under FAC §15330.
PROCESSING NOTIFICATION	Various	DPR and DHS	Director of DPR is required to immediately notify Director of Department of Health Services (DHS) when produce destined for processing is in violation of permissible pesticide residue tolerances. (FAC §12582)

PUBLIC PROTECTION ACTIONS - PUBLIC PROTECTION ACTIONS ARE INITIATED FOR THE IMMEDIATE PROTECTION OF PUBLIC HEALTH OR SAFETY.

ACTION	AFFECTED PARTY	AGENCY	ACTIVITY AND AUTHORITY
SEIZE/HOLD PRODUCE (Administrative)	Growers, packers, shippers and sellers	DPR	Seize and hold (quarantine) any lot of produce that exceeds or is suspected of exceeding pesticide residue tolerance. (FAC §12601)
CROP ABATEMENT ORDER (Court)	Growers, packers, shippers and sellers	DPR (through the District Attorney or City Attorney)	Any lot of produce that exceeds pesticide residue tolerance is a public nuisance and is subject to disposal. (FAC §§12642 and 12643)
CROP SEIZURE (Administrative)	Growers, packers, shippers and sellers	DPR	Seize and destroy any plant, crop, commodity or site treated with a pesticide not registered for use on the plant, crop, commodity or site. (FAC §12648)
PROHIBIT HARVEST ORDER (Administrative)	Growers	CAC or DPR	Delay harvest until expiration of pre-harvest interval. (FAC §12672)
PROHIBIT HARVEST ORDER (Administrative)	Growers	CAC or DPR	Prohibit harvest of any produce that carries pesticide residue in excess of a permissible tolerance. (FAC §12673)
PESTICIDE SEIZURE (Administrative)	Person in possession of pesticide	DPR	Seize and quarantine pesticides that are adulterated, misbranded, not registered by the Director, etc. (FAC §12961)

Excerpted from 3 CCR §6140 - Inspection Authority:

The Director or CAC may, during business hours or at any other reasonable time, enter and inspect, and/or sample any of the following or related items in order to determine compliance with Divisions 6 and 7 of the FAC:

- Fields, areas, structures, and greenhouses where pesticides are handled, stored or applied;
- Growing crops/harvested commodities;
- Equipment (including protective clothing and equipment) used to store/transport /handle pesticides;
- Change areas/other facilities used by employees; and
- Pesticides and tank mixtures.

The person responsible for preparing/maintaining records shall make those records available during business hours, upon demand. Required records include:

- Records concerning work hours/training/medical monitoring of employees;
- Pest control recommendations/pesticide use and operations records; and
- Pesticide transactions/sales/delivery records.

Excerpted from 3 CCR §6141 - Employee Interviews:

The Director or CAC may confidentially interview any employee during work hours:

- When reasonably necessary for an investigation of employee illness(s) suspected of having been caused by a pesticide; or
- To investigate a suspected pesticide-related safety violation. (*Authority for 3 CCR §§6140 - 6141 is FAC §§11456 and 12981*)